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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Final report on the situation of human rights in Afghanistan submitted by Mr. Felix Ermacora, Special Rapporteur, in accordance with Commission on Human Rights resolution 1993/66

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Introduction

1. The Special Rapporteur was first appointed to examine the human rights situation in Afghanistan in 1984 by the Chairman of the Commission on Human Rights, who had been requested to do so by the Economic and Social Council in its resolution 1984/37 of 24 May 1984. Since then, his mandate has been renewed regularly by the Commission, in resolutions endorsed by the Council, in which the Special Rapporteur was requested to report to the Commission and to the General Assembly. So far, he has submitted nine reports to the Commission (E/CN.4/1985/21, E/CN.4/1986/24, E/CN.4/1987/22, E/CN.4/1988/25, E/CN.4/1989/24, E/CN.4/1990/25, E/CN.4/1991/31, E/CN.4/1992/33 and E/CN.4/1993/42) and nine to the General Assembly (A/40/843, A/41/778, A/42/667 and Corr.1, A/43/742, A/44/669, A/45/664, A/46/606, A/47/656 and A/48/584).

2. At its forty-ninth session, the Commission on Human Rights decided, by its resolution 1993/66 of 10 March 1993, to extend the mandate of the Special Rapporteur for one year, an extension confirmed by the Economic and Social Council in its decision 1993/275 of 28 July 1993. The Special Rapporteur submitted an interim report (A/48/584) to the General Assembly at its forty-eighth session containing preliminary conclusions and recommendations. The General Assembly, taking note with appreciation of the report, adopted without a vote resolution 48/152 on 20 December 1993, by which it decided to keep under consideration during its forty-ninth session the situation of human rights in Afghanistan, in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council.

3. Subsequent to the renewal of his mandate by the Commission on Human Rights at its forty-ninth session, and in accordance with past practice, the Special Rapporteur again visited the area in order to obtain the most broadly based information possible. He visited Pakistan on 13, 17, 18 and 20 September and Afghanistan on 14, 15, 16 and 19 September 1993. His findings are reflected in the interim report to the General Assembly (A/48/584).

4. In keeping with past practice, the Special Rapporteur intended to visit Afghanistan and Pakistan with a view to finalizing his report to the Commission on Human Rights at its fiftieth session. He had planned to travel to the area from 2 to 7 January 1994 but had to cancel the trip for reasons of health at the end of December 1993. The Special Rapporteur nevertheless envisaged to carry out his visit in mid-January 1994. Owing to the heavy fighting which broke out in Kabul and other parts of Afghanistan on 1 January 1994, the Special Rapporteur was unable to carry out the planned visit and was therefore unable to meet with the competent political and other personalities in the area. Nevertheless, the Special Rapporteur followed the developments in Afghanistan on a daily basis. Deeply shocked at the armed hostilities in Kabul and other parts of Afghanistan which erupted with unprecedented intensity on 1 January 1994 resulting in severe loss of life, mostly among innocent civilians, the Special Rapporteur issued a statement on 11 January 1994 in which he condemned the armed hostilities in Afghanistan and appealed to all parties to respect human rights. He continued to follow the situation closely and took note of the statements issued by the United Nations Secretary-General, the President of the Security Council and the Personal Representative of the Secretary-General in Afghanistan and Pakistan on 12, 24 and 31 January 1994 respectively in which they deplored the continued large-scale fighting in Afghanistan and the suffering it has imposed

on innocent civilians. He also held consultations in Geneva with representatives of the Office of the United Nations High Commissioner for Refugees and of the International Committee of the Red Cross. The Special Rapporteur was also able to meet with representatives of various organizations and individuals in New York, Geneva and Vienna.

5. However, at the beginning of February 1994, the Special Rapporteur learned that high-level delegations of both warring sides, those supporting the President and those allied with the Prime Minister, were in Islamabad and Peshawar. Meeting with them and other non-combatant leaders would have enabled the Special Rapporteur to obtain first-hand information about the situation currently prevailing in Afghanistan. It would also have afforded him the opportunity to discuss with the competent persons the human rights aspect of the situation since 1 January 1994. Therefore, the Special Rapporteur wrote on 4 February 1994 to the Assistant Secretary-General for Human Rights and met with him on 7 February in order to obtain the clearance to undertake a visit to the area which was requested by numerous competent persons. He was, unfortunately, not authorized to carry out the mission on the grounds of the lateness of the date in relation to the consideration of item 12 of the agenda of the Commission on Human Rights. While appreciating the need for deadlines in this regard, the Special Rapporteur nevertheless feels that exceptional situations warrant an exception and wishes to express his disappointment that he was unable to fully carry out his mandate.

6. For the purpose of drafting the present report in the most impartial and objective manner possible, the Special Rapporteur studied with keen interest and systematically evaluated the abundant written information relevant to his mandate which has appeared in the national and international press. He has also consulted various reports concerning the situation of human rights in Afghanistan prepared by United Nations bodies and specialized agencies, in particular that prepared by the Office of the Personal Representative of the Secretary-General in Afghanistan and Pakistan and Coordinator for Humanitarian Assistance to Afghanistan (OSGAP/UNOCHA). The Special Rapporteur has studied with particular attention the oral and written information provided to him by non-governmental organizations which deal with the human rights and humanitarian aspects of the Afghan issue such as Amnesty International, the International League for Human Rights and the Afghan League for Human Rights.

7. The Special Rapporteur would like to express his sincere gratitude to the Office of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, the Office of the Personal Representative of the Secretary-General in Afghanistan and Pakistan and Coordinator for Humanitarian Assistance to Afghanistan, the International League for Human Rights and Amnesty International for the invaluable assistance they have provided to him in the drafting of the present report, which was finalized on 11 February 1994.

8. Chapter I of the present report contains an outline of the general situation in Afghanistan and describes the events which have taken place there since the submission of the Special Rapporteur's report to the General Assembly. In addition, it dwells on the problems of human rights in

the light of the current political situation in the country. Chapter II deals with the problem of refugees and displaced persons while Chapter III describes the action undertaken by the international community. Chapter IV considers other human rights issues in Afghanistan. Chapter V contains the conclusions and recommendations which the Special Rapporteur has drawn from the analysis of the available information.

I. OUTLINE OF THE GENERAL SITUATION IN AFGHANISTAN

A. Events in Afghanistan since the submission of the previous report (A/48/584)

9. The overall political situation which affects the situation of human rights in Afghanistan has not changed substantially since the Shura-Ahl-e-Hal Wa Aqd (Council for the solving of problems and making of agreements) was held in Kabul on 29 December 1992 and on which the Special Rapporteur reported in detail. Mr. Rabbani, the head of the Jamiat Islami political party and the only candidate for the position of president, was elected by 916 votes in favour to 59 against. The shura was contested as not being held in conformity with Islamic law and was boycotted by the leaders of five of the nine political parties. The representatives of the political parties which did not participate in its deliberations met in January 1993 at Jalalabad, the capital of Nangarhar province, and issued a four-point declaration. Various other Afghan political factions presented alternative proposals, none of which could be implemented.

10. Since the existing political tensions were not reduced, the different political parties accepted the good offices of Saudi Arabia, the Islamic Republic of Iran and Pakistan and decided to meet at Islamabad. A 10-point Afghan Peace Accord, to which was annexed a document entitled "Division of Powers", was adopted on 7 March 1993 (for the texts, see S/25435) but was implemented only very partially.

11. As the implementation of the Islamabad Accord proved difficult, the leaders of the Afghan political parties met once again at Jalalabad, in Nangarhar province, between 30 April and 17 May 1993 and concluded and signed an accord in which, inter alia, a certain number of ministerial portfolios were distributed. The Accord concluded at Jalalabad contains the Charter of the Supreme Council of the Islamic State of Afghanistan whose role was to provide guidelines concerning the daily conduct of political affairs. The Accord also provided for the establishment of an Election Commission and set out its Charter. All the parties and groups concerned had agreed to the formation of a government for a period of 18 months, i.e. up to June 1994, in which Mr. Burhanuddin Rabbani would remain President and Mr. Gulbuddin Hekmatyar or his nominee would assume the office of Prime Minister. It was decided that during the two months following the signing of the Accord, the President would look after the Ministry of Defence while the Prime Minister would be in charge of the Ministry of the Interior. Mr. Gulbuddin Hekmatyar was sworn in as Prime Minister on 17 April 1993 in Charasiab, a village located 25 kilometres from Kabul.

12. However, the leaders of the Afghan National Liberation Front (ANLF) and the National Islamic Front of Afghanistan (NIFA) did not sign a document containing a number of the decisions taken because they alleged that it violated human rights by imposing the veil on women. On 19 May, the party leaders decided that posts and privileges awarded during the communist regime would be revoked. Numerous persons who did not occupy high-ranking positions in the previous Government and were not accused of committing crimes kept their jobs in the current administrative apparatus, both in Kabul and in the provinces.

13. The "Division of Powers" contained in the Afghan Peace Accord which was adopted in Islamabad in March 1993 set out in detail the powers of the President and the Prime Minister and stipulated that the Prime Minister would form the Cabinet, which would work on the principle of collective responsibility. Differences would be resolved through discussion. However, despite the formation of this Islamic Government, the rivalry between the groups loyal to the President and the Prime Minister was so strong that their differences could not be resolved through negotiations. Instead, they have resorted to the use of force on a daily basis. In his report to the General Assembly, the Special Rapporteur indicated in paragraph 27 that the Prime Minister was reportedly unable to enter the capital while the President was unable to leave it beyond a radius of one kilometre, although both separately paid official visits to foreign countries. This situation had not changed at the time of the finalization of the present report.

14. Beginning on 1 January 1994, Kabul has witnessed some of the heaviest fighting that has ever taken place in that city, in the context of the power struggle between the forces loyal to the President, Mr. Rabbani, and those allied with the Prime Minister, Mr. Hekmatyar. A new political and military alliance called the Supreme Coordination Council of the Islamic Revolution of Afghanistan (SCCIRA) was established by the Hezbe Islami party led by Mr. Hekmatyar; the Jumbish (National Islamic) Movement which is led by General Abdul Rashid Dostom, a former Uzbek militia leader who first used to be an ally of former President Najibullah and subsequently of the former Minister for Defence, Mr. Ahmad Shah Massoud; the Afghan National Liberation Front led by the former President of Afghanistan, Mr. Sibghatullah Mojjadidi; Mr. Mahmoud Baryalai, the brother of Mr. Babrak Karmal who was President of Afghanistan during the previous regime, and a number of other groups. The SCCIRA called for the resignation of President Rabbani whose forces had formed an alliance with the Shurae Nazar (the Supervisory Council of the North) which is led by the former Minister for Defence, Mr. Massoud.

15. It has been reported that President Rabbani has described the conflict as a jihad (holy war) against communist forces and their allies. The Hezbe Islami (Khalis) and Harakat Inqilab Islami political parties remained neutral but condemned the role of the communists in the present fighting. The NIFA (Pir Gailani) party called for a cease-fire, a peaceful dialogue and a broad-based emergency gathering under the supervision of the United Nations and the Organization of Islamic Conference. Hence, the ongoing power struggle has brought no new figures to the Afghan political scene but has resulted in the creation of new alliances. The changes in alliances, at times with ethnic overtones resulting from the power struggle have given rise to further uncertainty as to who belongs to which political formation not only among the population but also among the observers of the Afghan political scene. The new feature of the changes in alliances has therefore rendered the political stability in the country even more precarious. Only one element has remained the same: the principal victim of the power struggle is the civilian population.

B. Human rights problems in the light of the current political situation in the country

The situation in Kabul

16. In his report to the General Assembly, the Special Rapporteur spoke about the massive indiscriminate killing in Kabul caused by rocket attacks and air attacks in which cluster bombs were used. The armed conflict which has been raging in Kabul since 1 January 1994 is nevertheless unprecedented in scope and intensity, once again causing heavy loss of life and damage to property. The city has been subjected to indiscriminate rocketing and shelling by heavy artillery. A new and very disquieting feature of the current conflict has been the use of aerial bombardment of residential areas of Kabul, with highways reportedly being used as runways for the fighter jets.

17. In addition to the neighbourhoods affected during previous conflicts in Kabul, new neighbourhoods such as the area of the presidential palace, Wazir Akhbar Khan and Microrayon, which had not been affected in an extensive manner during previous outbreaks of violence, are reported to have suffered heavy damage and destruction while the Shahrinau area, in which most of the United Nations premises are located is said to be almost completely deserted. On 4 January 1994, the United Nations Staff House located in that neighbourhood was hit by a rocket which caused serious damage. The targeting of hospitals and medical facilities has also continued in this round of fighting. The Special Rapporteur was informed that one of the most important monuments of the Afghan cultural and religious heritage, the Puli Keshti mosque which is located in the centre of Kabul, had received several direct artillery hits and was reportedly destroyed. In addition, the money market located in the Saray Shah Zada area of the city, which the Special Rapporteur visited in September 1993, was reportedly looted and set on fire.

18. The Special Rapporteur was informed that the rocketing and shelling in Kabul which has been taking place since 1 January 1994 had begun at dawn, while the population was still asleep, and that looting by the various groups involved in the conflict began immediately thereafter. According to one report, the militiamen under the command of General Dostom are reported to have started the hostilities. Persons who managed to leave the city reportedly told human rights organizations that the violence of the rocket and artillery attacks was such that they did not have the time to bury the members of their families who had been killed but simply left their bodies in the house, locked the doors and left. Thousands of families are reported to have been seen fleeing from the areas of heaviest fighting to seek refuge in safer places.

19. On 4 January 1994, the United Nations Secretary-General issued a statement in which he regretted the renewed outbreak of violence in Kabul and appealed to all groups to cease hostilities.

20. Unfortunately, the fighting continued unabated. Following an appeal issued by the Government of Pakistan which was endorsed by the United Nations, a 24-hour cease-fire was observed in Kabul on 8 January 1994 between the warring sides. It permitted the evacuation of remaining United Nations international staff and a number of diplomats and allowed a number of the city's inhabitants to leave. However, the fighting resumed immediately,

causing additional loss of life, displacement among the population and destruction of property. Closely following the events in Afghanistan, the Special Rapporteur issued a statement on 11 January in which he condemned the armed hostilities and appealed to all parties to respect human rights.

21. Since the armed conflict went on unabated, the Secretary-General issued a second statement on 12 January 1994 in which he deplored the continued fighting in Afghanistan and stated his intention to send a special mission to that country as soon as suitable conditions existed, in accordance with General Assembly resolution 48/208. On 11 February, the Secretary-General announced the appointment of Mr. Mahmoud Mestiri (Tunisia) to lead the special mission and that Mr. Sotirios Mousouris, the Personal Representative of the Secretary-General in Afghanistan and Pakistan, will be part of the mission.

22. Heavy fighting in Kabul continued and more civilian casualties and destruction of property were reported. Large numbers of people continued to be uprooted from their homes and forced to seek refuge in safer areas of Kabul, mostly towards the east but also towards the north and south. In the light of the prevailing situation, the President of the Security Council issued a statement on 24 January 1994.

23. Notwithstanding the aforementioned appeals, fighting in Kabul continued, with aerial bombardments and intensive rocketing taking place even in highly populated residential areas. The Personal Representative of the Secretary-General in Afghanistan and Pakistan issued a statement in this connection on 31 January 1994.

24. Unfortunately, all of the above-mentioned appeals appear to have gone unheeded. In September 1993, the mayor of Kabul informed the Special Rapporteur that, since the Islamic Government came to power in 1992, some 36,000 houses had been partly or fully destroyed and more than 30,000 damaged as a result of armed conflict. It was estimated that some 10,000 persons had been killed during the same period. At the time of the finalization of the present report, at least 900 persons are believed to have been killed in Kabul since 1 January 1994 while more than 10,000 persons have reportedly been wounded. The magnitude of the current round of fighting, which has been described by relief organizations as far worse than the previous ones, has reportedly destroyed a considerable part of the city. Apart from the cease-fire which was observed on 8 January, the only lulls in the fighting were brought about by weather conditions.

25. In addition to the appeals made by the international community to end the fighting and arrive at a negotiated settlement of the conflict, a large number of Afghan field commanders, clergymen, renowned scholars, educators and other prominent personalities are reported to have established a truce body to serve as mediator between the warring sides which is led by Commander Jalaluddin Haqqani, the appointee to the position of Minister of Justice with the current Government. This entity would later become an Islahi Shura (consultative reformatory council). A mediation commission composed of 45 persons from the Kabul area is reported also to have attempted to reconcile the parties involved in the present armed conflict.

The situation in Mazar-i-Sharif

26. The area of Mazar-i-Sharif, the capital of Balkh province in the north of the country which has been under the control of General Abdul Rashid Dostom, had been calm since 1992. In his report to the General Assembly, the Special Rapporteur stated in paragraph 32 that the rivalry between the two parties in conflict (in Kabul) was not necessarily reflected in other parts of the country where their forces are present. However, this pattern did not hold true when heavy fighting broke out in Kabul and Mazar-i-Sharif on 1 January 1994, since the fighting in both cities was mainly taking place between forces loyal to President Rabbani and those supporting the alliance led by General Dostom and Prime Minister Hekmatyar. Clashes between persons loyal to both sides are reported to have already started in December 1993. By the end of the first week of January, the fighting in the city had subsided but the situation remained extremely tense. The Special Rapporteur received news that the office of the World Food Programme (WFP) and the United Nations Staff House in Mazar-i-Sharif were attacked and looted during the fighting. United Nations international staff were relocated to other cities in the region. The WFP warehouse is also said to have been partly looted. Humanitarian organizations indicated that they had encountered numerous problems with the casualties in Mazar-i-Sharif where some 200 persons were wounded and only one of the city's three hospitals was functioning.

The situation in Sarobi and Tagab

27. Fighter jets had already begun to be used in October 1993 when fighting broke out between forces loyal to President Rabbani and those allied to Prime Minister Hekmatyar in the areas of Sarobi and Tagab (Kapisa province), located some 60 kilometres north-east of Kabul. A 10-day cease-fire was observed between 20 and 30 October which allowed for the reopening of the Kabul-Jalalabad road. The fighting intensified again in mid-November.

The situation in Kandahar

28. In paragraph 32 of his report to the General Assembly, the Special Rapporteur indicated that Kandahar province, in south-eastern Afghanistan, was not free from conflict resulting from party rivalries. While some progress was being made towards a broad-based shura (council) in Kandahar after a meeting of the Personal Representative of the Secretary-General with a large number of commanders last December, the outbreak of hostilities in Kabul has provoked a renewal of fighting. A 69-man Reconciliation Shura (council) has been trying to assist the parties in the conflict to reach a political settlement.

The situation in other parts of the country

29. The fighting which began on 1 January 1994 in Kabul is reported to have spread to six other provinces of Afghanistan. In Faryab province in the north-western part of the country, the Governor of Herat province, who is allied with President Rabbani, Mr. Ismail Khan, reportedly attacked the forces of General Dostom, sending fighter jets from the Shindad base to Shebergan. The situation in Herat is tense but has remained peaceful.

II. THE PROBLEM OF REFUGEES AND DISPLACED PERSONS

30. As the United Nations High Commissioner for Refugees stated before the Commission on Human Rights at its fiftieth session, "Most of the refugees and internally displaced persons are victims of the twin scourges of human rights abuses and internal conflict ...". This phrase, unfortunately, applies fully to the present situation in Afghanistan.

31. The armed conflict around Kabul already had a negative impact on the scale of repatriation of refugees, which had declined dramatically in 1993 when only 358,763 persons returned from Pakistan and 344,416 persons returned from the Islamic Republic of Iran since the inception of the repatriation programme in that country on 1 December 1992. Approximately 96,000 additional refugees had come to Pakistan since April 1992, mostly from urban areas and principally as a result of the turmoil in Kabul. Therefore, some 4 million Afghan refugees continued to live in Pakistan and the Islamic Republic of Iran.

32. The current round of fighting in Afghanistan which began on 1 January 1994 has created new refugees and internally displaced persons in addition to those mentioned above. Before the closing by Pakistan of the border crossing at Torkham on 12 January 1994, some 18,000 persons are believed to have fled to the North West Frontier Province of Pakistan. The persons allowed across the border are the wounded, the sick and those in possession of travel documents and visas. An additional 15,000 had reportedly remained for some time in the area near Torkham, either hoping that the border will be reopened or for lack of money to pay the bus fare to the camps for internally displaced persons in Jalalabad. Afghans of Hindu and Sikh origin wishing to seek refuge in India are reportedly not allowed to transit through Pakistan without previously obtaining a visa for India which was difficult to get in view of the fact that there is no Indian consulate in Jalalabad. In the context of the current fighting, the United Nations High Commissioner for Refugees issued a statement to the Ministers for Foreign Affairs of the countries of the Economic Cooperation Organization meeting in Tehran, appealing to them to continue to protect and assist those refugees who were temporarily in their care pending solutions to their problems and to admit those who were in need of protection.

33. At the time of the finalization of the present report, some 80,000 persons had come from Kabul to the displaced persons camps in Jalalabad, arriving at an average rate of 250 families, i.e. some 1,700 persons per day. Given the sharp increase in bus fares from Kabul, numerous persons are reported to have made at least part of the journey, which includes the crossing of rivers, on foot. There are currently four camps for internally displaced persons in and around Jalalabad: the Mumtaz and Hada camps, which have existed for some time and which were visited by the Special Rapporteur on two occasions, and the recently built Samarkhel (which is run by the ICRC) and Sar Shahi camps located some 15 kilometres and 18 kilometres from the city respectively. In addition to the new arrivals, some 4,000 families who fled the previous rounds of fighting in Kabul as well as the armed conflicts in Tagab and Sarobi had also sought refuge in the Jalalabad camps. Persons from Tagab are mainly living in the Samarkhel camp while new arrivals from Kabul have gone to the three other ones, and in particular to Sar Shahi. Their most pressing needs are food, medicine and

tents. Unlike the persons who left Kabul in 1992 and 1993, who included urban professionals, former government officials, professors and other intellectuals, those fleeing the city now are persons who were previously unable to leave for economic reasons and who have no other choice if they want to remain alive. In addition to camps, they have often taken refuge in the homes of fellow villagers or tribesmen and even with unknown people. It has been estimated that more than 175,000 persons have left Kabul as refugees or displaced persons since 1 January 1994. It is estimated that some 50,000 among them have returned to their home villages.

34. In addition to Jalalabad, persons have fled from Kabul to other parts of the country as well. Some 75,000 persons are believed to have gone to other provinces, in particular Laghman, the area of Khost in Paktia province and to the Mohammad Aga area in Logar province. A number of persons have gone to the displaced persons camps in the north of the country although passage to certain parts of the north has been rendered difficult because of meteorological condition resulting in the closure of the Salang pass. The camps in the north are located in the city of Mazar-i-Sharif, the capital of Balk province, in Kamaz, which is in the Mazar area, in Puli Khumri, Hairatan, and in Shebergan. Some 300 families from Kabul are believed to have arrived in Mazar-i-Sharif. At the time of the finalization of the present report, 260 new families had arrived at the Kamaz camp while 500 new families arrived to the camp for displaced persons at Puli Khumri. Some 100,000 displaced persons who had fled earlier fighting in Kabul were already living in Balkh province, 20,000 of whom were in camps while the rest were accommodated in public buildings. In addition, the authorities in Kandahar province in the southern part of the country have reported the arrival of approximately 400 displaced families from Kabul. A number of persons are believed to have been on the roads leading from Jalalabad to Kandahar and the southern provinces towards which access was restricted. The residents of Kabul who have fled the city to stay with families or seek shelter with local communities have placed additional burdens on the already overstretched or non-existent local services.

35. It has been reported that persons have also been displaced internally from Faryab to Badghis province as a result of current heavy fighting between the forces of General Dostom and the Governor of Herat, Mr. Ismail Khan.

36. Numerous citizens of Kabul have been displaced within Kabul since aerial bombardments and intensive rocketing were experienced even in highly populated residential areas. Thousands of families have left the areas of heaviest fighting to seek refuge in safer places. It is believed that approximately 300,000 persons moved to the northern parts of the city such as the Khair Kana neighbourhood which subsequently came under very heavy artillery fire on 22 January 1994, thus giving rise to a new movement of the population within the city. Some 250,000 persons are currently believed to be displaced in Kabul and its immediate environs. Persons have gone to the houses of relatives and friends or fellow villagers and tribesmen. The fact that 23 persons were reportedly injured when one shell fell on a single house provides a good illustration of their crowded living conditions. Those who have had nowhere to go have sought refuge in public buildings such as schools and mosques. The ICRC and the Afghan Red Crescent Society are assisting some 50,000 persons who have found themselves in this situation throughout the city. Even they are obliged to change locations all the time, as fighting

comes to their neighbourhood. The tragic situation in which the civilian population of Afghanistan finds itself and the indiscriminate and unrelenting rocketing, shelling and aerial bombardment of Kabul have prompted the ICRC to issue a press release in February 1994 appealing to the parties in the conflict to take all necessary measures to spare the civilian population as well as medical institutions and personnel. In addition, the press release states that the situation of the Afghan population, which is already one of the poorest in the world, is further aggravated by cold weather and the lack of electricity and basic goods.

37. The dispersal of Afghanistan's population in this manner brings to mind the term "migratory genocide" which historian Louis Dupree used to describe some of the population movements in that country.

38. During the period under consideration, the head of the Council of Understanding and National Unity, an organization of Afghan intellectuals seeking peace in Afghanistan, Mr. Wali Khan Karokhel, whom the Special Rapporteur met in September 1993, was killed in December 1993. His assassination is believed to have been politically motivated. Other prominent Afghan intellectuals and members of Afghan human rights organizations living in Pakistan have also received death threats. It would appear that intellectuals are currently at greater risk than persons who were associated with the former Government.

III. THE INTERNATIONAL COMMUNITY AND HUMAN RIGHTS IN AFGHANISTAN

39. The role of the international community has gained particular importance since the last round of fighting in Afghanistan broke out on 1 January 1994. The United Nations dispatched the first convoy of humanitarian relief for the displaced persons fleeing Kabul to Jalalabad on 3 January 1994. The Coordinator for Humanitarian Assistance for Afghanistan established a task force for the displaced. The responsibilities of the United Nations agencies were divided as follows: WHO would be responsible for relief relating to health, UNHCR would be responsible for camp management, WFP for food and logistics, UNICEF for water, sanitation and education, while UNOCHA would be responsible for the overall coordination of relief operations.

40. Owing to the intensity of the fighting, it was not possible to dispatch aid convoys to Kabul. Nevertheless, stocks of WHO medical supplies and of WFP wheat and other food commodities which were already available in the city were handed over to the ICRC for distribution among the needy population. Available stocks of goods in Kabul and Mazar-i-Sharif were distributed by United Nations national staff and the ICRC. Deliveries to Puli Khumri had to be halted owing to insecurity on the road. Mixed food commodities were also distributed in Kabul by CARE International. Emergency stocks were positioned as close as possible to Kabul for quick distribution when the security situation allowed. At the beginning of February, a convoy with WHO medical supplies and UNHCR blankets reached Kabul for distribution by the ICRC. UNICEF distributed essential drugs and diesel fuel to medical institutions.

41. The Special Rapporteur was informed that the area of Kandahar had not been accessible for any international humanitarian actions for some time. Nevertheless, at the beginning of February 1994, local authorities in Kandahar city distributed quilts, blankets, tarpaulins, kerosene stoves, plastic buckets and jerry-cans belonging to UNHCR to some 50 displaced families from Kabul. At the same time, UNHCR was assisting 15 families living in public buildings in the same city. International relief organizations also encountered difficulties regarding access to Kunduz province.

42. At the time of the finalization of the present report, United Nations agencies had distributed, 1,200 tonnes of food (WFP, ICRC, UNICEF), 450 tents and 3,000 rolls of plastic sheeting (UNCHS), 15,000 blankets (UNHCR, through ICRC), 900 blankets/sheets UNICEF, 8 surgical/medical units in Kabul since 1 January 1994. During the same period, 1,873 tonnes of food, 120,000 litres of fuel, 5,975 tents, 5,100 tarpaulins, 47,000 blankets and approximately 140 tonnes of medicines were delivered by United Nations agencies to Jalalabad.

43. The International Committee of the Red Cross has played a vital role during the present armed conflict in Afghanistan, maintaining a continuous presence of international staff in both Kabul and Mazar-i-Sharif. Besides its customary work in the medical and health fields, the ICRC has distributed its own emergency humanitarian relief supplies as well as those provided by United Nations agencies and is assisting some 50,000 persons displaced within Kabul who had taken refuge in public buildings. It has also been running the Samarkhel camp for displaced persons in Jalalabad and assisting the

United Nations agencies in alleviating the plight of both displaced persons and the local population throughout Afghanistan. The Special Rapporteur was informed that the ICRC was assisting in Mazar-i-Sharif 300 families which ha fled the ongoing fighting in Kabul. The ICRC is currently assisting 23 medical facilities in the city on an ad hoc basis by providing emergency medical supplies; this assistance includes all the functioning hospitals.

IV. OTHER HUMAN RIGHTS ISSUES

44. Although Afghanistan is a party to various international human rights instruments, in particular the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as to the Geneva Conventions of 12 August 1949, there is still no administration which could be able to guarantee human rights as enshrined in the above-mentioned instruments. The adherence of a Government to international human rights instruments has no practical value in such a situation. The country is still without a valid constitution and the relevant accords have not been implemented.

45. In addition to the lack of a functioning and effective central Government, army and police, the Special Rapporteur has also mentioned the existence of prisons run by some political parties and field commanders in areas under their control, mostly at undisclosed locations. He expressed the opinion that the existence of private prisons is incompatible with an effective government and that they must be abolished. In paragraph 11 of resolution 48/152, the General Assembly urged the unconditional release of all prisoners detained without trial on the Afghan territory by rival groups, and called for the abolition of prisons run by political parties.

V. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

46. In the present situation, the Special Rapporteur has the impression that Afghanistan is a country in which the power struggle creates more of an equilibrium of anarchy than an equilibrium of people's government.

47. The conclusions which the Special Rapporteur presented in his report to the General Assembly (A/48/584, paras. 102-127) are still valid.

48. The power struggle between political groups that may be considered as being bound by the Islamabad and Jalalabad accords has resumed since 1 January 1994 and has reached new dimensions. Well-known political figures have formed new alliances with the aim of keeping or gaining political power regardless of the suffering of the people, in particular the population of Kabul. Reliable reports are available concerning the scope and intensity of the fighting. Since 1 January 1994, more than 900 civilians are reported to have been killed, more than 10,000 have been wounded, approximately 18,000 refugees have fled to Pakistan, 155,000 persons are internally displaced throughout the country, while some 250,000 persons are displaced within Kabul and its immediate environs. Areas in Kabul which had been spared up to January 1994 have been more or less completely destroyed. Housing, public buildings as well as religious and cultural monuments have been razed. It has been reported that for the first time during the civil war in Afghanistan aerial bombardment has been carried out systematically in areas populated by civilians.

49. There are currently approximately 80,000 persons who have fled the fighting in Kabul to the camps for internally displaced persons in the area of Jalalabad, in Nangarhar province, while 75,000 persons are displaced in the rest of Afghanistan. The new arrivals place additional burdens on the already overstretched or non-existent local services and on those providing humanitarian assistance to Afghanistan.

50. The Special Rapporteur spoke before the General Assembly about his fear that the conflict in Kabul could spread to other cities and areas of Afghanistan. This fear has now materialized: signs of potential outbreak of civil war may be observed in the northern part of the country as well as in Kandahar and Nangarhar provinces. The conflict may spread further to the whole region. Neighbouring countries have offered their good offices to resolve the conflict.

51. It is therefore quite understandable that the human rights situation in the country is far from being in conformity with international human rights instruments to which Afghanistan is a party.

52. The request of the Special Rapporteur, voiced before the General Assembly, that his report be translated into two of the principal languages spoken locally is being implemented. The translation of the reports into Dari and Pashtu has almost been completed. Ways and means must be found to distribute the translations of the report on the widest possible basis among the interested population in Afghanistan.

53. In resolution 48/208, the General Assembly requested the Secretary-General to dispatch a special mission to Afghanistan; this has not yet taken place. The Special Rapporteur is of the opinion that without a stable cease-fire in the country and without the guarantee of unhindered mobility on roads and in the Afghan air space, as well as safe access to airports, systematic action with a view to arriving at a peaceful settlement of the present situation is not possible.

54. The whole situation in Afghanistan shows that the different tribal and other areas which are under the control of powerful personalities have developed a new identity which endangers the unity of the country and which threatens the security, peace and stability of the whole region. It would appear that separate foreign policies are being pursued in different parts of Afghanistan. The only way to counter these separatist trends would be a new federal or regional arrangement concerning the system of government, which nevertheless presupposes an end to the armed conflict.

B. Recommendations

55. Since the situation of human rights in Afghanistan is so closely linked with the overall political situation in the country, it is useless to make any recommendation regarding the restoration of human rights in the country as long as political forces are unable to solve their political differences other than by military means and when appeals to that effect are not respected.

56. The only recommendation would be that all groups should disarm and stop the war. Similar recommendations have been made by all who have discussed the Afghan problem openly. However, all such appeals require international solidarity if they are to be implemented. Regrettably, this solidarity does not exist. On the contrary, both Afghanistan and its people seem to have been forgotten by the international community. The Special Rapporteur would therefore recommend that all the political leaders and other eminent Afghans from inside and outside Afghanistan be invited to gather in a neutral location and take the steps that would be conducive to peace, namely a plan for the holding of free elections which should be elaborated and then implemented.

57. All political groups should release their prisoners and agree to visits of their prisons by the International Committee of the Red Cross and the Special Rapporteur.

58. Humanitarian assistance should continue to be provided and delivered under international supervision. However, such efforts will not succeed without the necessary financial backing which seems to be lacking at present. Particularly vulnerable groups should be given priority attention in this regard. The Special Rapporteur recommends that the fate of women and girls should be examined with particular care.

59. An appeal should be made to humanitarian organizations to elaborate a plan for the reconstruction of the country and they should be requested to inform the United Nations about how they think that peace and reconstruction can be achieved in Afghanistan.

60. The Special Rapporteur would also like to repeat the recommendations made in his report to the General Assembly at its forty-eighth session (A/48/584, paras. 128-142).

61. The only recommendation of the Special Rapporteur which has really been fulfilled with the help of the Afghan people, was the end of the foreign occupation. All the other conclusions and recommendations are, in reality, still valid. The United Nations has an obligation to reinvigorate its efforts to implement at least the conclusions and recommendations which are contained in the resolutions of the Commission on Human Rights and the General Assembly.

62. As long as the international community does not show a commitment to carrying out the conclusions and recommendations contained in different resolutions and reports, they will remain, cynically, a dead letter and the suffering people of Afghanistan will justly ask the world organization and the international community about the value of the words in the reports of the Special Rapporteur and the value of humanitarian assistance which is not able to solve the main problems in the present situation of the people of Afghanistan.

63. At this point in time, food, medicines, shelter and particularly physical safety are the primary concerns for the majority of the population of Afghanistan. Another major issue requiring firm action by the international community is the problem of the weapons supplied to the warring factions. Decisive action will have to be taken to reduce the disastrous effects of the use of highly sophisticated weaponry on the civilian population.

64. International observers should be deployed along the highway between Jalalabad and Kabul in order to monitor and facilitate the passage of humanitarian convoys, which are reported to have been blocked on this highway as a result of the fighting.